IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7268 OF 2005

Patanwala Glass Works P.Ltd .. Petitioners

versus

Fakruddin Tyabali Vasi & ors .. Respondents

None for Petitioner

CORAM : D.G.KARNIK, J

DATED : 17th February, 2006

P.C.

1. None present for the petitioners.

2. I have perused the petition and copy of the impugned order. The petitioners were the defendants in suit. They were duly served with a writ of summons and they also filed appearance but, did not file the written statement within 90 days, but, subsequently made an application for condonation of delay. The trial Judge has held that the delay was of 280 days and was not sufficiently explained. In Kailash vs Nanku & ors reported in 2005 (3) Bom.C.R.906 the Supreme Court has held that the provisions of order 8 Rule 1 of

the Code of Civil Procedure are not mandatory but the Court should not lightly condone the delay in filing of the written statement and the defendants must make out special circumstances for claiming extention of time to file the written statement. The trial Court has held that the petitioners have not made out any special circumstances and that there was laxity and gross negligence on their part. In view of this finding of fact I see no error in the impugned order. The Writ Petition is accordingly rejected.

(D.G.KARNIK, J)